

**REMARKS**

Claims 1-4 and 10-25 are all the claims presently pending in the application. Claim 1 is amended to more clearly define the invention, claims 5-9 are canceled, and claims 10-25 are added. Claims 1, 10, and 18 are independent.

These amendments are made only to more particularly point out the invention for the Examiner and not for narrowing the scope of the claims or for any reason related to a statutory requirement for patentability.

Applicant also notes that, notwithstanding any claim amendments herein or later during prosecution, Applicant's intent is to encompass equivalents of all claim elements.

Claims 1-9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the Ross reference

This rejection is respectfully traversed in the following discussion.

**I. THE CLAIMED INVENTION**

An exemplary embodiment of the claimed invention, as defined by, for example, independent claim 1, is directed to an instrument that includes a stick-like receiving member and a barrel. The stick-like object receiving member includes a cylindrical side portion which engages with at least a part of the outer peripheral surface of a stick-like object and surrounds at least a part of the outer peripheral surface of the stick-like object, and a bottom portion which closes one end of the cylindrical side portion, and the stick-like object receiving member having safety precautions. A slit is formed in the cylindrical side portion and bottom portion so as to penetrate said cylindrical side portion and bottom portion in the axial direction to provide an air passage of the stick-like object receiving member. The barrel

includes a cylindrical casing having one end within which the stick-like object receiving member is detachably mounted, an end face to which the collar portion of the stick-like object receiving member is locked, an inner peripheral surface which engages with at least part of the cylindrical side portion of the stick-like object receiving member and surrounds the outer peripheral surface of the cylindrical side portion, and a step portion formed on the inner peripheral surface so as to be separated from the bottom portion of the stick-like receiving member and defining an opening. A gap is formed between the step portion and the bottom portion that communicates with the slit and forms an air passage together with the slit and the opening.

Conventional instruments have difficulty maintaining a safe condition when a stick-like object receiving member is received in a barrel. One exemplary conventional instrument provides protrusions on the inner peripheral surface of a stick-like object receiving member and/or provides protrusions on the outer peripheral surface of a stick-like object to provide an air passage. However, these protrusions limit the size of the stick-like object and the air passage that is established in this manner is also limited.

In stark contrast, the present invention provides an air passage that is formed by a gap between a step portion of the barrel and a bottom portion of the stick-like object receiving member, a slit that penetrates a cylindrical side portion and bottom portion of the stick-like object receiving member and an opening in the step portion. In this manner, the present invention is capable of providing a sufficient air passage without limiting the size of the stick-like object, the stick-like receiving member, and/or the barrel. (Page 3, lines 9-15).

## **II. THE 35 U.S.C. § 112, SECOND PARAGRAPH REJECTION**

The Examiner alleges that claims 1-9 are indefinite. While Applicant submits that such would be clear to one of ordinary skill in the art to allow them to know the metes and bounds of the invention, taking the present Application as a whole, to speed prosecution claim 1 has been amended in accordance with Examiner Walczak's very helpful suggestions.

In view of the foregoing, the Examiner is respectfully requested to withdraw this rejection.

## **III. THE PRIOR ART REJECTION**

The Examiner alleges that the Ross reference teaches the claimed invention. Applicant submits, however, that there are elements of the claimed invention which are neither taught nor suggested by the Ross reference.

The Ross reference does not teach or suggest the features of the claimed invention including a gap that is formed between the step portion and the bottom portion that communicates with the slit and forms an air passage together with the slit. As explained above, this gap is important for establishing an air passage with the slit so that a sufficient air passage can be provided without limiting the size of the stick-like object, the stick-like receiving member, and/or the barrel.

In stark contrast, the Ross reference discloses a lead container 10 that does not define a gap between the step portion of the barrel and the bottom portion of the stick-like object receiving member.

Indeed, the Ross reference discloses a lead container 10 that only includes one opening at the top and is closed at the bottom, thus, no air passage is formed within the lead

container 10.

Further, the Ross reference does not teach or suggest the features of the present invention including an air passage that is defined by a slit, that penetrates a cylindrical side portion and bottom portion of the stick-like object receiving member, a gap, between the bottom portion and a step portion of the barrel, and an opening in the step portion of the barrel.

Indeed, as explained above, the lead container 10 that is disclosed by the Ross reference clearly defines a space that is completely enclosed by the bottom of the lead container. Therefore, the bottom of the lead container does not include an opening through which an air passage is formed along with a slit in the stick-like object receiving member and the gap between the bottom of the stick-like object receiving member and the step of the barrel.

Therefore, the Ross reference does not teach or suggest each and every element of the claimed invention and the Examiner is respectfully requested to withdraw this rejection of claims 1-9.

#### **IV. FORMAL MATTERS AND CONCLUSION**

The Office Action objects to the specification and claims for allegedly missing words and letters. However, Applicant's copy of the specification is not missing words and/or letters. Applicant's respectfully submit that the Examiner's copy of the specification and claims must have been altered from that which was originally filed. Therefore, for the Examiner's convenience, Applicant hereby resubmits a clean copy of the specification as originally filed on August 18, 2003, which copy is not missing words and/or letters.

In view of the foregoing amendments and remarks, Applicant respectfully submits that claims 1-4 and 10-25, all the claims presently pending in the Application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the Application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

Date: 2/28/05

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